

Wynn & Wynn, P.C.

• ATTORNEYS •

90 New State Highway
Raynham, MA 02767
(508) 823-4567
Fax (508) 822-4097
1 (800) 852-5211
<http://www.wynnwynn.com>

March 23, 2005

FILED
CLERKS OFFICE
MAR 25 P 12:47
U.S. DISTRICT COURT
DISTRICT OF MASS.

Elizabeth K. Balaschak
William E. Enright, Jr.
Thomas M. Grimmer
Richard A. Martone
Kevin P. McRoy
Robert F. Mills
Charles D. Mulcahy
John J. O'Day, Jr.
Kevin J. O'Malley
Thomas E. Pontes
Michael J. Princi
Rebecca C. Richardson
Janice E. Robbins
William Rosa*
Louis V. Sorgi, Jr.
Dina M. Swanson
Robert Venturo
John A. Walsh
Paul F. Wynn
Thomas J. Wynn

Clerk

U.S. District Court
District of Massachusetts
U.S. Courthouse
1 Courthouse Way, Suite 2300
Boston, MA 02210

SCANNED

DATE: 3-28-05

BY: K B

RE: Timothy Hills v. Town of Stoughton
United States District Court, C.A. No. 05-10488-MLW

Dear Sir or Madam:

Enclosed for filing in the above-referenced matter, please find certified copies of documents received from Norfolk Superior Court.

Thank you for your attention to this matter.

Very truly yours,

WYNN & WYNN, P.C.


Charles D. Mulcahy

CDM/ktm

Enclosures

cc: Dino M. Colucci, Esquire
Gerard Hosman, Claim Examiner (GFMS #232839)

Of Counsel
Hon. Robert L. Steadman (Ret.)
Thomas A. Maddigan
Hon. James F. McGillen, II (Ret.)
Hon. James J. Nixon (Ret.)

Admitted:
*Massachusetts and Rhode Island

NOCV2004-02101
Hills v Stoughton

File Date	12/09/2004	Status	Disposed: transfered to other court (dtrans)	
Status Date	03/18/2005	Session	C - Civil C - CtRm 20	
Origin	1	Case Type	E03 - Action against Commonwealth/municipl	
Lead Case		Track	A	

Service	03/09/2005	Answer	05/08/2005	Rule12/19/20	05/08/2005
Rule 15	03/04/2006	Discovery	01/28/2007	Rule 56	03/29/2007
Final PTC	07/27/2007	Disposition	12/09/2007	Jury Trial	Yes

Plaintiff Timothy Hills Active 12/09/2004	Private Counsel 552331 Dino M Colucci Colucci & Colucci 552 Adams Street Milton, MA 02186 Phone: 617-698-6000 Fax: 617-698-1262 Active 12/09/2004 Notify
Defendant Town of Stoughton Served: 02/24/2005 Served (answr pending) 02/24/2005	Private Counsel 359360 Charles D Mulcahy Wynn & Wynn 90 New State Highway Raynham, MA 02767 Phone: 508-823-4567 Fax: 508-822-4097 Active 03/18/2005 Notify

Date	Paper	Text
12/09/2004	1.0	Complaint entry fee \$290 plff jury claim
12/09/2004		Origin 1, Type E03, Track A.
12/09/2004	2.0	Civil action cover sheet filed
12/09/2004		average track notice sent to plff attorney
12/17/2004		ONE TRIAL review by Clerk, Case is to remain in the Superior Court
02/24/2005	3.0	Motion for Appointment as Process Server
02/24/2005		MOTION (P#3.0) is ALLOWED (Isaac Borenstein, Associate Justice) dated 2/24/05 2 true attested copies mailed February 24,2005
03/02/2005	4.0	SERVICE RETURNED: Town of Stoughton(Defendant), certified mail, green card attached showing service on 2/24/05
03/18/2005	5.0	Case REMOVED this date to US District Court of Massachusetts-Notce of Removal(rec'd3/17/05)
03/18/2005	6.0	Written notice of removal to Federal Court(re'cd3/17/05)

A TRUE COPY
Attest: [Signature]
Deputy Assistant Clerk
3/18/05

FILED
 UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

3/18/05
 RECEIVED & FILED
 CLERK OF THE COURTS
 NORFOLK COUNTY
 3/18/05

2005 MAR 14 P 3:16
 C.A. No. _____

U.S. DISTRICT COURT
 DISTRICT OF MASS.

TIMOTHY HILLS
 Plaintiff

v.

TOWN OF STOUGHTON
 Defendant

NOTICE OF REMOVAL

05 - 10488 MLW

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS:

Now comes the defendant pursuant to the provision of 28 U.S.C. §§ 1441 and 1446, and hereby file notice of the removal of this action from the Superior court of the Commonwealth of Massachusetts, County of Norfolk, where it is currently pending, based on the following grounds:

1. This is an action in which the plaintiff alleges violations of his civil rights under the Fourteenth Amendments to the U.S. Constitution. The plaintiff seeks relief presumably pursuant to 42 U.S.C. §1983. See Complaint, affixed hereto and incorporated by reference, where subsection 10 of the Complaint entitled FACTS the plaintiff alleges that the defendant "infringed the plaintiff's civil rights as guaranteed by both the United States and Massachusetts Constitutions." The plaintiff also asserts state claims alleging harassment, false imprisonment, infliction of emotional distress, assault, battery, invasion of privacy, deceit and fraud. See the Complaint attached hereto and incorporated by reference.

2. This Court has jurisdiction over the plaintiff's constitutional claims pursuant to 28 U.S.C. §1441.

3. This removal is timely, as the defendant was served of this action on February 24, 2005.

4. The Defendant has consented to the removal of the matter to the United States District Court for the District of Massachusetts.

SIGNED PURSUANT TO RULE 11 OF THE FEDERAL RULES OF CIVIL PROCEDURE.

DEFENDANT
TOWN OF STOUGHTON
By its Attorneys,

WYNN & WYNN, P.C.

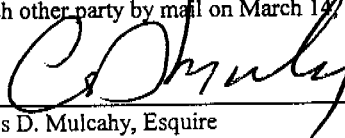


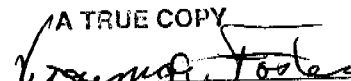
Charles D. Mulcahy
90 New State Highway
Raynham, MA 02767
(508) 823-4567
BBO #359360

March 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail on March 14, 2005.


Charles D. Mulcahy, Esquire

A TRUE COPY
Attest: 
Deputy Assistant Clerk
3/18/05

03/03/2005

09:26

U.S. DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

SUBJECT AND FILE

NO. 794

0000

7-05

(TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:
TORT - MOTOR VEHICLE TORT - CONTRACT
EQUITABLE RELIEF - OTHER.)

COMMONWEALTH OF MASSACHUSETTS

NORFOLK SS.

SUPERIOR COURT
CIVIL ACTION

NO. NOCV004-02101

RECEIVED
STOUGHTON, MASS

05 FEB 24 AM 11:37

THE TOWN CLERK

Timothy Hills, Plaintiff(s)

v.

Town of Stoughton, Defendant(s)

10 Kent St
Stoughton

A TRUE COPY ATTEST
S. [Signature]
Clerk of the Court

SUMMONS

To the above-named Defendant:

You are hereby summoned and required to serve upon Dino M. Colucci, Colucci, Colucci & Marcus, P.C., plaintiff's attorney, whose address is 552 Adams Street, Milton, MA, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Dedham either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, SUZANNE V. DELVECCHIO, Esquire, at Dedham, the 22nd

day of February, in the year of our Lord two thousand and Five

[Signature] Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the name of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO.

05 FEB 24 AM 11:31
RECEIVED
CLERK

TIMOTHY HILLS,
Plaintiff

vs.

TOWN OF STOUGHTON,
Defendant

VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL

1. The Plaintiff, Timothy Hills, is an individual, who resides at 28 Mariton Road, Canton, Commonwealth of Massachusetts.
2. The Defendant, the Town of Stoughton, is a Massachusetts municipality organized, incorporated and/or operated pursuant to Massachusetts law. Town offices are located at 10 Pearl Street, Stoughton, Massachusetts.

FACTS

3. In or around April, 2002, David Cohen (hereinafter referred to as "Cohen"), was a police officer duly employed by the town of Stoughton.
4. In or around the aforesaid date, the plaintiff was contacted by Cohen who attempted to collect a debt that the plaintiff allegedly owed to a third party named Peter Marinelli.
5. On the aforesaid date, and on other diverse occasions, Cohen threatened the plaintiff and promised to prosecute him if the latter did not immediately pay the aforesaid debt.
6. At all times material hereto, the plaintiff was in the exercise of due care and acted lawfully.
7. On the aforesaid date and at various subsequent occasions, Cohen harassed the plaintiff, caused the plaintiff significant apprehension and embarrassment and fostered an atmosphere of intimidation.
8. On or about April 30, 2002, Cohen, under cover of law, assaulted and falsely arrested Hills, improperly detained him and deprived the plaintiff of his liberty for an extended period of time.
9. On the aforesaid date and on various subsequent occasions, Cohen improperly defamed and/or otherwise slandered the plaintiff and thereby caused him harm.
10. On the aforesaid date and on various subsequent occasions, the Defendant infringed the plaintiff's civil rights as guaranteed by both the United States and Massachusetts Constitutions. As a result of the defendant's foregoing conduct, the plaintiff has suffered damages and incurred costs.

LUCCI,
LUCCI &
ARCUS, P.C.

Attorneys
20, Massachusetts 02116
Phone (617) 999-6980
Fax: (617) 999-1362

**COUNT I
(Harassment)**

11. The Plaintiff, Timothy Hills, repeats and reavers all of the allegations contained in paragraphs one through ten of this Complaint as if rewritten and realleged herein.
12. As the direct and proximate result of the conduct of the Defendant, its employees, agents and others for whom the defendant is responsible, the Plaintiff, Timothy Hills, was harassed by the Defendant and thereby suffered loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT II
(False Imprisonment)**

13. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twelve of this Complaint as if rewritten and realleged herein.
14. As the direct and proximate result of the conduct of the Defendant, its employees, agents and others for whom the defendant is responsible, the Plaintiff, Timothy Hills, was falsely imprisoned by the Defendant and thereby suffered loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT III
(Infliction of Emotional Distress)**

15. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through fourteen of this Complaint as if rewritten and realleged herein.
16. As the direct and proximate result of the conduct of the Defendant, its employees, agents and others for whom the defendant is responsible, the Plaintiff, Timothy Hills, suffered emotional distress.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT IV
(Assault)**

17. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through sixteen of this Complaint as if rewritten and realleged herein.
18. As the direct result of the conduct of the Defendant, its employees, agents and/or others

**OLUCCI,
OLUCCI &
ARCUS, P.C.**
1 Adams Street
New, Massachusetts 02134
Telephone: (617) 898-6800

for whom the defendant is legally responsible, the plaintiff, Timothy Hills, was assaulted by the Defendant and thereby suffered loss.

RECEIVED
05 FEB 24 AM 11:37

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

COUNT V
(Battery)

19. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through nineteen of this Complaint as if rewritten and realleged herein.
20. As the direct result of the conduct of the defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff, Timothy Hills, suffered battery at the hands of the Defendant and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

COUNT VI
(Invasion of Privacy)

21. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twenty of this Complaint as if rewritten and realleged herein.
22. As the direct result of the conduct of the Defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff Timothy Hills, suffered an invasion of privacy and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

COUNT VII
(Deceit and Fraud)

23. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twenty-two of this Complaint as if rewritten and realleged herein.
24. As the direct result of the conduct of the Defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff Timothy Hills, had perpetrated upon him fraud and deceit and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

OLUCCI,
OLUCCI &
MARCUS, P.C.

1 Adams Street
West. Mansfield, MA 01080
Telephone: (617) 490-6000

03/03/2005

09:26

NO. 794

0015

2010

03/03/2005 12:00 FAX 011 554

ROPELMAN AND FAIR

COUNT VIII
(Violation of Civil Rights)

25. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twenty-four of this Complaint as if rewritten and realleged herein.
26. As the direct result of the conduct of the Defendant, its employees, agents and/or other for whom the Defendant is legally responsible, the plaintiff Timothy Hills, suffered a violation of his civil rights and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES PRESENTED.

Respectfully Submitted,

For The Plaintiff,

Timothy Hills,

By His Attorneys,

COLUCCI, COLUCCI & MARCUS, P.C.

Dino M. Colucci
Dino M. Colucci, BBO#552331
552 Adams Street
Milton, MA 02186
(617) 698-6000

RECEIVED
STOUGHTON MASS.

05 FEB 24 AM 11:37

THE TOWN CLERK

**COLUCCI,
COLUCCI &
MARCUS, P.C.**

552 Adams Street
Milton, Massachusetts 02186
Phone (617) 698-6000
Fax (617) 698-1262

CIVIL COVER SHEET

JS 44 (Rev. 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Timothy Hills

(b) County of Residence of First Listed Plaintiff Norfolk
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Dino M. Colucci, Esquire, 552 Adams Street, Milton, MA 02186
(617) 698-6000

DEFENDANTS
Town of Stoughton

County of Residence of First Listed Defendant Norfolk

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Charles D. Mulcahy, Esquire, Wynn & Wynn, P.C., 90 New State Highway, Raynham, MA 02767 (508) 823-4567

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause: Plaintiff claims defendant violated his right under the Fourteenth Amendment to the U.S. Constitution and seeks damages pursuant to 42 USC Section 1983

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Norfolk Superior Court

DOCKET NUMBER NOCV2004-02101

DATE

03/14/2005

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
CLERK'S OFFICE1. Title of case (name of first party on each side only) Timothy Hills v. Town of Stoughton

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 196, 368, 400, 440, 441-446, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 480, 490, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

05-10488MLW

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Hills v. Town of Stoughton, Norfolk Superior Court, CA No. NOCV2004-02101

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐ NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Charles D. Mulcahy, EsquireADDRESS Wynn & Wynn, P.C., 90 New State Highway, Raynham, MA 02767TELEPHONE NO. (508) 823-4567

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

C.A. No. 05-10488 P 3:23

THE DISTRICT COURT
DISTRICT OF MASS.

TIMOTHY HILLS
Plaintiff

v.

TOWN OF STOUGHTON
Defendant

05-10488 MLW

ANSWER OF DEFENDANT, TOWN OF STOUGHTON

1. The Defendant admits the allegations contained in Paragraph 1 of Plaintiff's Complaint.
2. The Defendant admits the allegations contained in Paragraph 2 of Plaintiff's Complaint.
3. The Defendant admits the allegations contained in Paragraph 3 of Plaintiff's Complaint.
4. The Defendant neither admits nor denies the allegations contained in Paragraph 4 of Plaintiff's Complaint.
5. The Defendant denies the allegations contained in Paragraph 5 of Plaintiff's Complaint.
6. The Defendant neither admits nor denies the allegations contained in Paragraph 6 of Plaintiff's Complaint.
7. The Defendant denies the allegations contained in Paragraph 7 of Plaintiff's Complaint.
8. The Defendant denies the allegations contained in Paragraph 8 of Plaintiff's Complaint.
9. The Defendant denies the allegations contained in Paragraph 9 of Plaintiff's Complaint.
10. The Defendant denies the allegations contained in Paragraph 10 of Plaintiff's Complaint.
11. No Answer Required.
12. The Defendant denies the allegations contained in Paragraph 12 of Plaintiff's Complaint.
13. No Answer Required.

14. The Defendant denies the allegations contained in Paragraph 14 of Plaintiff's Complaint.
15. No Answer Required.
16. The Defendant denies the allegations contained in Paragraph 16 of Plaintiff's Complaint.
17. No Answer Required.
18. The Defendant denies the allegation contained in Paragraph 18 of Plaintiff's Complaint.
19. No Answer Required.
20. The Defendant denies the allegation contained in Paragraph 20 of Plaintiff's Complaint.
21. No Answer Required.
22. The Defendant denies the allegations contained in Paragraph 22 of Plaintiff's Complaint.
23. No Answer Required.
24. The Defendant denies the allegations contained in Paragraph 24 of Plaintiff's Complaint.
25. No Answer Required.
26. The Defendant denies the allegations contained in Paragraph 26 of Plaintiff's Complaint.

WHEREFORE, the Defendant respectfully requests that this Honorable Court dismiss the Plaintiff's Complaint and find judgement in their favor together with attorneys' fees, costs and such other relief as this Court deems just and proper.

DEFENDANT DEMANDS A TRIAL BY JURY ON ALL ISSUES.

AFFIRMATIVE DEFENSES

1. The Defendant says that the Plaintiff's Complaint fails to state a claim upon which relief can be granted and, therefore, moves for dismissal of this action pursuant to Mass. R. Civ. P. 12(b)(6).
2. The Defendant states that the process of Plaintiff was insufficient and, therefore, Defendant moves for dismissal under Mass. R. Civ. P. 12(b)(4).
3. The Defendant states that the service of process of Plaintiff was insufficient and, therefore, Defendant moves for dismissal under Mass. R. Civ. P. 12(b)(5).

4. The Defendant states that the Plaintiff did not bring his complaint within the time limit provided by the Statute of Limitations and, therefore, Plaintiff's claim is barred by the terms of that Statute.
5. The Defendant is guilty of no negligence.
6. The Defendant states that the negligence of Plaintiff exceeds the negligence of Defendant and states that under the provisions of M.G.L. c. 231 § 85, Plaintiff cannot recover.
7. The Defendant states that if the negligence of Defendant was greater than the negligence of Plaintiff, then the damages assessable against the Defendant should be reduced by the percentage of negligence attributable to the Plaintiff, under the provisions of M.G.L. c. 231, § 85.
8. The Defendant states that the injuries and damages alleged were caused in whole or in part by Plaintiff's own negligence.
9. The Defendant states that the injuries to Plaintiff were caused by a third party over which Defendant had no legal control and for whose conduct Defendant was not legally responsible, and therefore, Defendant cannot be held liable for the damages claimed by the Plaintiff.
10. By way of affirmative defense, the Defendant states that M.G.L. c. 258 § 10(a) bars claims against public employees based upon their performance or failure to perform when exercising due care in the execution of any statute, regulation of a public employer, or municipal ordinance or bylaw.
11. By way of affirmative defense, the Defendant states that M.G.L. c. 258 § 10 (b) bars claims against public employees based upon their performance or failure to perform a discretionary function within the scope of their employment.
12. By way of affirmative defenses, the Defendant states that M.G.L. c. 258 § 10(j) bars claims against public employees. The action of the Defendant did not originally cause the condition that led to the incident involving the Plaintiff.
13. The Defendant denies each and every allegation of the Plaintiff's Complaint except as specifically admitted above.
14. The Defendant states that at the time of the alleged incident, Plaintiff was guilty of a violation of law which contributed to the alleged injuries.
15. The Defendant states that the Plaintiff has failed to join a necessary party under Rule 19 of the Massachusetts Rules of Civil Procedure.

16. The claims arising out of the subject matter of the occurrence alleged are barred as the defendant was carrying out law enforcement functions in good faith.
17. Defendant denies all of plaintiff's allegations of wrongful conduct and states that at all relevant times, public employees were acting within the scope of their employment in good faith and with reasonable suspicion and probable cause, and in the reasonable belief that their actions were lawful.
18. The actions and conduct of the Defendant, to the extent they occurred as alleged, were objectively reasonable under the circumstances and it enjoys qualified immunity from suit and liability.
19. The alleged acts or omissions of the Defendant were not the cause, proximate or otherwise, of the alleged injury or damage.
20. The Defendant is immune from liability pursuant to M.G.L. c. 258 § 2.
21. The Defendant denies that its actions were extreme, outrageous or intolerable in a civilized society.
22. The arrest of the Plaintiff by the Defendant was supported by the requisite reasonable suspicion and/or probable cause.
23. The Defendant denies placing the Plaintiff in reasonable fear of imminent harm.
24. The action filed by the Plaintiff is frivolous, wholly unsubstantiated and not advanced in good faith, entitling the Defendant to recover all costs, expenses and attorneys' fees associated with the defense in this case.
25. The Plaintiff is barred from recovery because the Plaintiff failed to present his claims as required under the Massachusetts Tort Claims Act, M.G.L. c. 258, § 4.
26. The Plaintiff failed to notify an Executive Officer pursuant to M.G.L. c. 258, § 4 within two years that a claim was pending and such is barred from recovery because of non-compliance with the Statute.
27. The Town of Stoughton is entitled to qualified immunity.
28. The Plaintiff has failed to state a cause of action under 42 USC § 1983 because the Plaintiff has suffered no deprivation of due process in law that affords the Plaintiff an adequate remedy.
29. The Plaintiff is precluded from any recovery against the Defendant pursuant to the provisions of M.G.L. c. 175D, § 9.

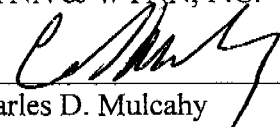
30. The Plaintiff is obligated, pursuant to M.G.L. c. 175D, § 9 to exhaust all available insurance prior to proceeding against the Defendant.
31. The Plaintiff is barred from recovery because the Defendant Town of Stoughton is entitled to governmental immunity pursuant to M.G.L. Chapter 258, § 10(h).
32. The Defendant states that M.G.L. c. 175D, which governs insolvent insurers, allows the Defendant by and through the Massachusetts Insurers Insolvency Fund to have all setoffs from other available insurance exhausted prior to the Plaintiff receiving any compensation if he is entitled from the Insolvency Fund.
33. The Town of Stoughton is not a sueable entity and is not a proper party defendant in a Civil Right Action pursuant to 42 USC § 1983.
34. The Town of Stoughton is not a person pursuant to USC §1983 and lacks independent legal existence that bars any claim against the Town of Stoughton.
35. The Defendant denies that any agent, servant, or employee assaulted and battered the Plaintiff, Timothy Hills.
36. The Defendant states that the Plaintiff failed to attach any document in his complaint indicating notice to the Town of Stoughton within the two-year time period pursuant to M.G.L. c. 258, § 4.
37. The Defendant states that M.G.L. c. 258, §10(c) bars claims arising out of intentional torts including assault and battery. Therefore, the Plaintiff cannot recover against the Defendant.
38. The Defendant, Town of Stoughton, was insured through Legion Insurance Company, which was declared insolvent by the Pennsylvania Supreme Judicial Court on July 25, 2003 effective July 28, 2003.
39. Pursuant to 42 USC § 1983, the Doctrine of Respondeat Superior is not a basis for holding the Defendant liable for the constitutional torts of the Police Officers.
40. The Defendant denies that any agent, servant, or employee harassed the Plaintiff, Timothy Hills.
41. The Defendant denies that any agent, servant, or employee inflicted any emotional distress on the Plaintiff, Timothy Hills.
42. The Defendant denies that any agent, servant, or employee battered the Plaintiff, Timothy Hills.

43. The Defendant denies that any agent, servant, or employee invaded the privacy of the Plaintiff, Timothy Hills.
44. The Defendant denies that any agent, servant, or employee perpetrated deceit and fraud upon the Plaintiff, Timothy Hills.

THE DEFENDANT DEMANDS A TRIAL BY JURY ON ALL ISSUES RAISED AND DEFENSES ASSERTED HEREIN.

DEFENDANT
TOWN OF STOUGHTON
By its Attorneys,

WYNN & WYNN, P.C.

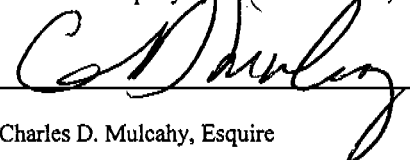


Charles D. Mulcahy
90 New State Highway
Raynham, MA 02767
(508) 823-4567
BBO #359360

March 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by mail on March 14, 2005.



Charles D. Mulcahy, Esquire

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

C.A. No. _____
2005 MAR 14 P 3:23

TIMOTHY HILLS
Plaintiff

v.

TOWN OF STOUGHTON
Defendant

U.S. DISTRICT COURT
DISTRICT OF MASS.

05-10488 MLW


NOTICE OF APPEARANCE

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MASSACHUSETTS:

Please enter my appearance as counsel for Defendant, Town of Stoughton, in the above-
captioned action.

DEFENDANT
TOWN OF STOUGHTON
By its Attorneys,

WYNN & WYNN, P.C.


Charles D. Mulcahy
90 New State Highway
Raynham, MA 02767
(508) 823-4567
BBO #359360

March 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above
document was served upon the attorney of record
for each other party by mail on March 14, 2005.


Charles D. Mulcahy, Esquire

6.0

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
SUPERIOR COURT DEPARTMENT

NORFOLK, SS.

CIVIL ACTION NO. NOCV2004-02101

TIMOTHY HILLS
Plaintiff

v.

TOWN OF STOUGHTON
Defendant

3/17/05
RECEIVED & FILED
CLERK OF THE COURTS
NORFOLK COUNTY
3/18/05

WRITTEN NOTICE OF REMOVAL TO FEDERAL COURT
PURSUANT TO 28 U.S.C. §1445(D)

TO: Plaintiff Timothy Hills
Through his attorney,
Dino M. Colucci, Esquire
Colucci, Colucci & Marcus, P.C.
552 Adams Street
Milton, MA 02186

AND: Clerk, Civil
Norfolk Superior Court
650 High Street
Dedham, MA 02026

Please take notice that a Notice of Removal of the above-captioned action from the Superior Court of the Commonwealth of Massachusetts, Norfolk County, to the United States District Court for the District of Massachusetts (a copy of which Notice of Removal is annexed hereto) was duly filed in the United States District Court for the District of Massachusetts.

Please take further notice that this Notice and a copy of the Notice of Removal, certified by the United States District Court for the District of Massachusetts, has been duly filed with the Clerk of the Superior Court of the Commonwealth of Massachusetts, Norfolk County, which filing

removes this action and, in accordance with 28 U.S.C. §1446(d), the Superior Court shall proceed no further herein unless and until this case is remanded by the United States District Court.

DEFENDANT
TOWN OF STOUGHTON
By its Attorneys,

WYNN & WYNN, P.C.



Charles D. Mulcahy
90 New State Highway
Raynham, MA 02767
(508) 823-4567
BBO #359360


March 16, 2005

CERTIFICATE OF SERVICE

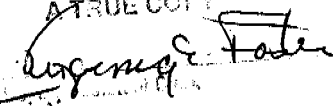
I, Charles D. Mulcahy, hereby certify that on the below date, I served a copy of the foregoing Written Notice of Removal, by first class mail, postage prepaid, to the following counsel of record:

Dino M. Colucci, Esquire
Colucci, Colucci & Marcus, P.C.
552 Adams Street
Milton, MA 02186

Dated: March 16, 2005



Charles D. Mulcahy, Esquire

ATRUE COPY
Attest: 
3/18/05

PLAINTIFF(S) Timothy Hills	DEFENDANT(S) Town of Stoughton
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE (617)698-6000 Dino M. Colucci, COLUCCI, COLUCCI & MARCUS, P.C. 552 Adams Street, Milton, MA 02186. Board of Bar Overseers number: 552331	ATTORNEY (if known) <div>B</div>

Origin code and track designation

Place an x in one box only:

<input checked="" type="checkbox"/> 1. F01 Original Complaint	<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X)
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)	<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)	<input type="checkbox"/> 6. E10 Summary Process Appeal (X)

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)

CODE NO.	TYPE OF ACTION (specify)	TRACK	IS THIS A JURY CASE?
E03	Municipality	(A)	(x) Yes () No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses	\$
2. Total Doctor expenses	\$
3. Total chiropractic expenses	\$
4. Total physical therapy expenses	\$
5. Total other expenses (describe)	\$
Subtotal	\$

B. Documented lost wages and compensation to date \$

C. Documented property damages to date \$

D. Reasonably anticipated future medical and hospital expenses \$

E. Reasonably anticipated lost wages \$

F. Other documented items of damages (describe) \$

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

TOTAL \$

CONTRACT CLAIMS

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

The plaintiff was harassed, assaulted and falsely arrested by an employee of the Town of Stoughton.

TOTAL \$ 500,000.00

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record *Dino M. Colucci* DATE: *01/08/04*

Attest: *Virginia Foster* X TRUE COPY
Deputy Assistant Clerk
3/18/05

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT
CIVIL ACTION NO:

TIMOTHY HILLS,
Plaintiff

04 02101

vs.

TOWN OF STOUGHTON,
Defendant

RECEIVED
CLERK
12/9/04
NORFOLK COUNTY

VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL

1. The Plaintiff, Timothy Hills, is an individual, who resides at 28 Maniton Road, Canton, Commonwealth of Massachusetts.
2. The Defendant, the Town of Stoughton, is a Massachusetts municipality organized, incorporated and/or operated pursuant to Massachusetts law. Town offices are located at 10 Pearl Street, Stoughton, Massachusetts.

FACTS

3. In or around April, 2002, David Cohen (hereinafter referred to as "Cohen"), was a police officer duly employed by the town of Stoughton.
4. In or around the aforesaid date, the plaintiff was contacted by Cohen who attempted to collect a debt that the plaintiff allegedly owed to a third party named Peter Marinelli.
5. On the aforesaid date, and on other divers occasions, Cohen threatened the plaintiff and promised to prosecute him if the latter did not immediately pay the aforesaid debt.
6. At all times material hereto, the plaintiff was in the exercise of due care and acted lawfully.
7. On the aforesaid date and at various subsequent occasions, Cohen harassed the plaintiff, caused the plaintiff significant apprehension and embarrassment and fostered an atmosphere of intimidation.
8. On or about April 30, 2002, Cohen, under cover of law, assaulted and falsely arrested Hills, improperly detained him and deprived the plaintiff of his liberty for an extended period of time.
9. On the aforesaid date and on various subsequent occasions, Cohen improperly defamed and/or otherwise slandered the plaintiff and thereby caused him harm.
10. On the aforesaid date and on various subsequent occasions, the Defendant infringed the plaintiff's civil rights as guaranteed by both the United States and Massachusetts Constitutions. As a result of the defendant's foregoing conduct, the plaintiff has suffered damages and incurred costs.

**COLUCCI,
COLUCCI &
MARCUS, P.C.**

552 Adams Street
Milton, Massachusetts 02186
Telephone: (617) 698-6000
Facsimile: (617) 698-1262

**COUNT I
(Harassment)**

11. The Plaintiff, Timothy Hills, repeats and reavers all of the allegations contained in paragraphs one through ten of this Complaint as if rewritten and realleged herein.
12. As the direct and proximate result of the conduct of the Defendant, its employees, agents and others for whom the defendant is responsible, the Plaintiff, Timothy Hills, was harassed by the Defendant and thereby suffered loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT II
(False Imprisonment)**

13. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twelve of this Complaint as if rewritten and realleged herein.
14. As the direct and proximate result of the conduct of the Defendant, its employees, agents and others for whom the defendant is responsible, the Plaintiff, Timothy Hills, was falsely imprisoned by the Defendant and thereby suffered loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT III
(Infliction of Emotional Distress)**

15. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through fourteen of this Complaint as if rewritten and realleged herein.
16. As the direct and proximate result of the conduct of the Defendant, its employees, agents and others for whom the defendant is responsible, the Plaintiff, Timothy Hills, suffered emotional distress.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT IV
(Assault)**

17. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through sixteen of this Complaint as if rewritten and realleged herein.
18. As the direct result of the conduct of the Defendant, its employees, agents and/or others

for whom the defendant is legally responsible, the plaintiff, Timothy Hills, was assaulted by the Defendant and thereby suffered loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT V
(Battery)**

19. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through nineteen of this Complaint as if rewritten and realleged herein.
20. As the direct result of the conduct of the defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff, Timothy Hills, suffered battery at the hands of the Defendant and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT VI
(Invasion of Privacy)**

21. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twenty of this Complaint as if rewritten and realleged herein.
22. As the direct result of the conduct of the Defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff Timothy Hills, suffered an invasion of privacy and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT VII
(Deceit and Fraud)**

23. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twenty-two of this Complaint as if rewritten and realleged herein.
24. As the direct result of the conduct of the Defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff Timothy Hills, had perpetrated upon him fraud and deceit and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

**COUNT VIII
(Violation of Civil Rights)**

25. The Plaintiff, Timothy Hills, repeats and realleges all of the allegations contained in paragraphs one through twenty-four of this Complaint as if rewritten and realleged herein.
26. As the direct result of the conduct of the Defendant, its employees, agents and/or others for whom the Defendant is legally responsible, the plaintiff Timothy Hills, suffered a violation of his civil rights and thereby sustained a loss.

Wherefore, the Plaintiff, Timothy Hills, demands judgment against the Defendant, the Town of Stoughton, in an amount sufficient and proper to compensate him for his losses, plus interest, attorneys fees and the cost of this action.

THE PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL ISSUES PRESENTED.

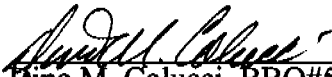
Respectfully Submitted,

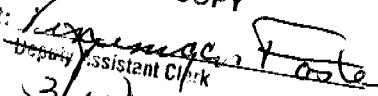
For The Plaintiff,

Timothy Hills,

By His Attorneys,

COLUCCI, COLUCCI & MARCUS, P.C.


Dino M. Colucci, BBO#552331
552 Adams Street
Milton, MA 02186
(617) 698-6000

AT TRUE COPY
Attest: 
Deputy Assistant Clerk
3/18/05

**COLUCCI,
COLUCCI &
MARCUS, P.C.**

552 Adams Street
Milton, Massachusetts 02186
Telephone: (617) 698-6000
Facsimile: (617) 698-1262

VERIFICATION

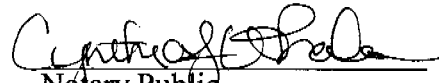
I, Timothy Hills, hereby certify that the facts contained in this Verified Complaint are based upon my personal knowledge and are true and accurate to the best of my belief.


Timothy Hills

COMMONWEALTH OF MASSACHUSETTS

Norfolk, SS

Then personally appeared the above named Timothy Hills and acknowledged the foregoing instrument to be his free act and deed before me.


Notary Public
My Commission expires:

Dated: Dec 6, 2004



CYNTHIA J. WHALEN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 11, 2008

**COLUCCI,
COLUCCI &
MARCUS, P.C.**

552 Adams Street
Milton, Massachusetts 02186
Telephone: (617) 698-6000
Facsimile: (617) 698-1262

(TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED:-
TORT - MOTOR VEHICLE TORT - CONTRACT -
EQUITABLE RELIEF - OTHER.) 4.0

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
CIVIL ACTION

NO. NOCV2004-02101

Timothy Hills
....., Plaintiff(s)

v.

Town of Stoughton
....., Defendant(s)

SUMMONS

RECEIVED & FILED
CLERK OF THE COURTS
NORFOLK COUNTY
3/2/05

To the above-named Defendant:

You are hereby summoned and required to serve upon Dino M. Colucci
Colucci, Colucci & Marcus, P.C.
plaintiff's attorney, whose address is 552 Adams Street, Milton, MA, an answer to the com-
plaint which is herewith served upon you, within 20 days after service of this summons upon you,
exclusive of the day of service. If you fail to do so, judgment by default will be taken against you
for the relief demanded in the complaint. You are also required to file your answer to the com-
plaint in the office of the Clerk of this court at Dedham either before service upon plaintiff's attorney
or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim
any claim which you may have against the plaintiff which arises out of the transaction or occur-
rence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making
such claim in any other action.

WITNESS, SUZANNE V. DELVECCHIO, Esquire, at Dedham the 22nd
day of February, in the year of our Lord two thousand and Five

Walter A. Smith Clerk.

NOTES:

This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
When more than one defendant is involved, the names of all defendants should appear in the caption.
If a separate summons is used for each defendant, each should be addressed to the particular defendant.

PROOF OF SERVICE OF PROCESS

I hereby certify and return that on FEBRUARY 24, 2005, I served a copy of the within summons, together with a copy of the complaint in this action, upon the within-named defendant, in the following manner (See Mass. R. Civ. P. 4 (d) (1-5): BY HANDING TRUE AND ATTESTED COPIES TO MS. KAY MCCANN, ASSISTANT TOWN CLERK AND DULY AUTHORIZED AGENT, IN HAND. SAID SERVICE WAS MADE AT 10 PEARL STREET, STOUGHTON, MA. ALSO SERVED ON DEFENDANT: TRACKING ORDER AND MOTION TO APPOINT SPECIAL PROCESS SERVER.

Dated: FEBRUARY 24, 20 05

Sean P. Collins
CONSTABLE & COURT APPOINTED PROCESS SERVER

N. B. TO PROCESS SERVER:-

PLEASE PRINT NAME OF DEFENDANT

DEFENDANT IN

SERVED ON

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Town of Stoughton
Town Clerk
10 Pearl Street
Stoughton, MA 02072

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

Francesca J. Stetson ☐ Agent ☒ Addressee

B. Received by (Printed Name)

FRAN STETSON

C. Date of Delivery

, 20 05

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes
☒ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service)

7004 0750 0002 6877 7662

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss. SUPERIOR COURT
CIVIL ACTION

NO. NOCV2004-(

Timothy Hills Plaintiff

v.

Town of Stoughton Defendant

SUMMONS

(Mass. R. Civ. P.4)

ATTEST COPY

Attest:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.: NOCV2004-02101

TIMOTHY HILLS,
Plaintiff

v.

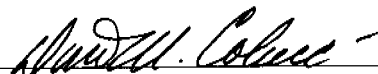
TOWN OF STOUGHTON
Defendants

AFFIDAVIT OF DINO M. COLUCCI, ESQUIRE

I, Dino M. Colucci, having first been duly sworn according to law, and pursuant to and in accordance with Rule 4(f) of the Massachusetts Rules of Civil Procedure, hereby depose and state as follows:

1. I am an attorney in good standing with the Bar and am licensed to practice law by and within the Commonwealth of Massachusetts.
2. I am counsel for the Plaintiff in the above-captioned action.
3. On February 24, 2005, I caused to be served on the Defendant, *via* Certified Mail No.: 7004 0750 0002 6877 7662 - Return Receipt requested, the following pleadings, documents and papers:
 - a. Summons;
 - b. Copy of Verified Complaint and Demand for Jury Trial; and
 - c. Copy of Tracking Order.
4. The above-referenced Return Receipt, signed by the addressee, is enclosed for filing herewith as evidence of personal delivery to the Defendant addressee.

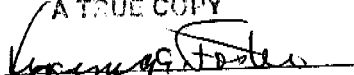
Subscribed and sworn to under the penalties of perjury this 28th day of February, 2005.



Dino M. Colucci
BBO# 552331
COLUCCI, COLUCCI & MARCUS, P.C.
552 Adams Street
Milton, MA 02186

A TRUE COPY

Attest:


Deputy Assistant Clerk

3/18/05

**COLUCCI,
COLUCCI &
MARCUS, P.C.**

552 Adams Street
Milton, Massachusetts 02186
Telephone: (617) 698-6000
Facsimile: (617) 698-1262

Dut
2/24/05

3.0
2/24/05

RECEIVED
CLERK
NORFOLK COUNTY

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS

SUPERIOR COURT DEPARTMENT
QUINCY DIVISION
Civil Action No.: 2004-02101

Timothy Hills,
Plaintiff

v.


Town of Stoughton,
Defendant

Feb. 24, 2005

Motion is
And.
(Barenstein, J.)
cc: Mr. K. Hely
Austler

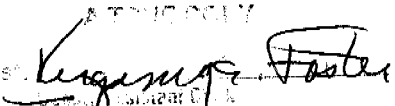
MOTION FOR APPOINTMENT AS PROCESS SERVER

In accordance with the provisions of Rule 4(c) of the Massachusetts Rules of Civil Procedure, the undersigned hereby moves this Court for the appointment of DHR & Associates or an associate as process server in the above-entitled action. The undersigned swears that to the best of his/her knowledge and belief that the person to be appointed process server is a Constable who is experienced in the service of process, is 18 years of age or over and is not a party to this action.


Dino M. Colucci, BBO#552331
COLUCCI, COLUCCI & MARCUS, P.C.
552 Adams Street
Milton, MA 02186
(617) 698-6000

Allowed by the court

Attest:

ATTEST

3/18/05

Dated:

COLUCCI,
COLUCCI &
MARCUS, P.C.
552 Adams Street
Milton, Massachusetts 02186
Telephone: (617) 698-6000
Facsimile: (617) 698-1262